



**The United States
Patent and Trademark Office**

The Intellectual Property Law Section of the State Bar of California

The Patent Office Comes to California

June 6 and 7, 2005

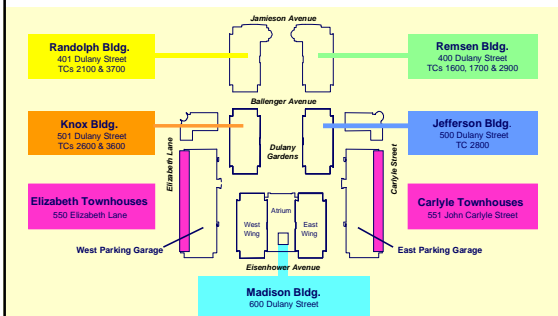
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**Patents
Deputy
Commissioners**

USPTO Alexandria Campus

Building Layout



Application Filings

... and Examiner
Production

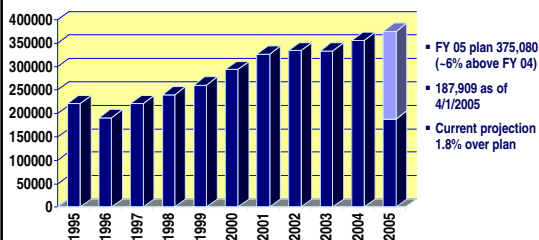
FY 04 UPR¹ Applications Filed

Technology Center	FY 04	FY 03 to FY04 Growth Rate
1600 - Biotechnology and Organic Chemistry	38,164	-1.2%
1700 - Chemical and Materials Engineering	49,334	-0.5%
2100 - Computer Architecture Software and Information Security	34,653	17.9%
2600 - Communications	48,210	16.1%
2800 - Semiconductor, Electrical, Optical Systems	81,144	7.6%
3600 - Transportation, Construction, Electronic Commerce	47,489	4.8%
3700 - Mechanical Engineering, Manufacturing and Products	56,533	5.5%
UPR Total	355,527	6.6%

¹ "UPR" = Utility, Plant, and Reissue Applications

FY 05 TC filings not yet available. Initial processing imposes a two to four month delay in assignment to a TC.

UPR Applications Filed



Production

	FY 04	FY 05 Mid-year	FY 05 Target
UPR ¹ FAOM ²	288,315	130,988	297,614
UPR Disposals ³	287,188	129,941	295,456
UPR Production Units ⁴	287,752	130,465	296,535
PCT Production Units ⁵	16,882	6,909	22,916

¹ "UPR" = Utility, Plant, and Reissue Applications.

² "FAOM" = First Action on the Merits – first action count by an examiner after the filing of an application (does not include restrictions or other miscellaneous actions).

³ "Disposal" = An examiner allowance, abandonment, or disposal following a board decision.

⁴ "Production Unit" = First action count plus disposal count divided by 2.

⁵ "PCT" = Patent Cooperation Treaty. PCT applications are processed differently and tracked separately from US National stage applications. For FY 05, 6,909 PU's is 16,242 processed applications.

PCT Applications Filed

	FY 04	2 nd QTR 04	2 nd QTR 05
International Applications Received*	45,396	22,246	22,240
Demands Filed	19,894	10,128	5,717
371 Applications Filed	37,173	19,881	18,546

*Currently 54% of Chapter 1 filings designate USPTO as Searching Authority, in FY 04 it was 60%

* Demands down due to change to PCT practice permitting applicants to get to 30 months before filing national stage from chapter 1 instead of having to file chapter 2.

PCT Production

	FY 2004	FY 2004 (Mid-year)	FY 2005 (Mid-year)
Search Reports	17,935	7,705	10,345
International Preliminary Examination Reports (IPERs)	19,439	9,272	5,897

* Number of IPERs down due to search and written opinion being available in the new form 237.

PENDENCY

... vs the Backlog

FY 05 Patent Pendency (as of 4/1/2005)

Technology Center	Average 1 st Action Pendency (months)	Average Total Pendency (months) ²
1600 - Biotechnology and Organic Chemistry	21.6	30.4
1700 - Chemical and Materials Engineering	19.2	28.4
2100 - Computer Architecture Software and Information Security	34.0	41.9
2600 - Communications	31.0	41.2
2800 - Semiconductor, Electrical, Optical Systems	14.6	24.3
3600 - Transportation, Construction, Electronic Commerce	17.1	25.6
3700 - Mechanical Engineering, Manufacturing and Products	16.3	24.7
UPR Total (as of 4/1/2005)	21.1	27.8
FY 05 Target	20.7*	31.0

¹ "Average 1st action pendency" is the average age from filing to first action for a newly filed application, completed during 1st quarter FY 2005.

² "Average total pendency" is the average age from filing to issue or abandonment of a newly filed application, completed during 1st quarter FY 2005.

* Assuming current input and output estimates, the agency should achieve first action pendency of 21.3 months by the end of FY 2005 and total pendency of 30.2 months.

First Action Pendency by Art Areas

High Pendency Art Areas	Pendency (months)	Low Pendency Art Areas	Pendency (months) ¹
1630 - Molecular Biology, DNA/RNA, Gene Therapy, Nucleic Acid	25.3	1625 - Heterocyclic Compounds and Uses	13.5
1764 - Distillation, Mineral Oil and Hydrocarbons	26.8	1752 - Radiation Imagery	13.8
2128 - Simulation and Modeling, Emulation of Computer Components	42.3	2125 - Manufacturing Control Systems and Chemical/ Mechanical/Electrical Control	21.2
2611 - Interactive Video Distribution	43.7	2636 - General Electrical Communication	17.0
2836 - Control Circuits	22.6	2833 - Electrical Connectors	10.1
3626 - Health Care, Insurance	44.2	3643 - Animal and Plant Husbandry	10.8
3762 - Body Treatment, Kinesotherapy, and Exercising	25.5	3742 - Thermal Combustion Technology	11.3

¹ "Average 1st action pendency" is the average age from filing to first action for a newly filed application, completed during 2nd quarter FY 2005.

Inventory by Art Examples

High Inventory Art Areas	Months of Inventory*	Low Inventory Art Areas	Months of Inventory*
1614, 1615, and 1617 - Drugs, Bio-affecting and Body Treatment	47 - 53	1620 - Organic Chemistry	17
1743 - Chemical Analysis	37	1794 - Adhesive Bonding and Coating Apparatus	11
2127 - Computer Task Management	62	2125 - Manufacturing Control Systems and Chemical/ Mechanical/Electrical Control	14
2611 - Interactive Video Distribution	72	2651, 2653 - Information Storage and Retrieval	17
2836 - Control Circuits	44	2831 - Electrical Conductors	9
3620 - Business Methods	34 - 106	3651 - Conveying	9
3731 and 3737 - Medical Instruments, Diagnostic Equipment	46 - 54	3742 - Thermal and Combustion Technology	10

*The number of months it would take to reach a first action on the merits (e.g., an action addressing patentability issues) on a new application filed as of Jan 2005 at today's production rate. Today's production rate means that there are no changes in production due to hiring, attrition, changes to examination processing or examination efficiencies, and that applications are taken up in the order of filing in the given art unifiers. Of course, USPTO is taking aggressive steps to ensure changes that will significantly lower the inventory rates in high-inventory art areas.

TC Application Inventory

	1600	1700	2100	2600	2800	3600	3700	Total*	Design
New Applications ¹ 9/30/2004	55,402	63,923	71,778	97,380	77,651	56,738	65,005	508,878	18,451
New Applications ¹ 4/1/2005	59,804	68,169	72,958	104,117	88,172	63,326	74,948	550,224	21,475
Overall Pending Applications ² 9/30/2004	95,006	105,447	102,440	138,822	137,458	101,097	108,039	809,323	27,599
Overall Pending Applications ² 4/1/2005	101,810	111,625	111,417	153,260	148,539	109,302	120,987	875,682	32,409

¹ New Application inventory¹ is the number of new applications designated or assigned to a technology center awaiting a first action.

² Overall Pending Application inventory² is the total number of applications designated or assigned to a technology center in an active status. Includes new applications; rejected awaiting response; amended; under appeal or interference; suspended; reexams and allowed applications awaiting grant publication.

*Total inventory includes applications not assigned to a particular TC, awaiting processing either pre- or post-examination.

Patent Quality (Shared Responsibility)

Quality of Products – FY 04

	Fiscal Year 2004								FY 04 Total	FY 05 Target
	1600	1700	2100	2600	2800	3600	3700	Design		
Patent In-Process Examination Compliance Rate ¹	76.4%	83.1%	88.3%	74.2%	86.8%	79.6%	81.7%	90.4%	82.0%	84%
Patent Allowance Error Rate ²	4.40%	8.03%	3.05%	2.53%	3.39%	7.54%	9.01%	3.28%	5.32%	4.0%

¹Compliance is the percent of office actions reviewed and found to be free of any in-process examination deficiency (an error that has significant adverse impact on patent prosecution).

²Patent allowance error rate is the percent of allowed applications reviewed having at least one claim which is considered unpatentable on a basis for which a court would hold a patent invalid. "Allowance" occurs before a patent is issued, so these errors are caught before any patent is actually granted.

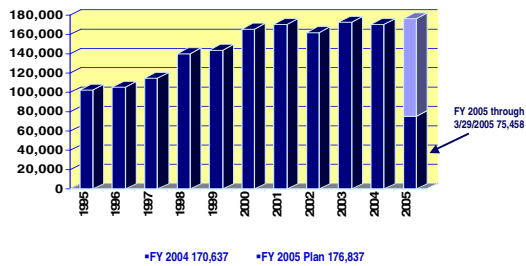
Quality of Products – FY 05

	Mid-Year Fiscal Year 2005									FY 05 Target
	1600	1700	2100	2600	2800	3600	3700	Design	FY 05 Total	
Patent In-Process Examination Compliance Rate*	81.2%	83.1%	86.3%	84.9%	91.8%	82.4%	83.7%	91.3%	85.9%	84%
Patent Allowance Error Rate	3.76%	6.60%	5.36%	0.91%	3.86%	7.27%	5.43%	6.06%	4.68%	4.0%

Compliance and error rates as measured by OPQA.

*Compliance rates estimated by correcting for unresolved errors using reversal rate for 1st half of FY 05. TC compliance rates not finalized at this time.

UPR Patents Issued



Re-Work

Technology Centers Rework* Statistics

	FY 2002	FY 2003	FY 2004	FY 2005**
TC Summary	% FAOM Rework	% FAOM Rework	% FAOM Rework	% FAOM Rework
1600	36.4%	39.7%	40.3%	42.7%
1700	25.2%	26.9%	27.1%	27.1%
2100	23.9%	24.0%	24.6%	24.9%
2600	24.8%	24.1%	24.3%	24.7%
2800	19.1%	22.0%	24.9%	24.7%
3600	17.7%	21.2%	23.1%	27.9%
3700	22.2%	25.1%	24.0%	27.9%
UPR	23.2%	25.3%	26.1%	27.8%

* Rework first actions are those actions that are in a Continuing, CPA or RCE application.

** As of May 21, 2005

Hiring and Retention

Hires and Attritions

	1600	1700	2100	2600	2800	3600	3700	Corps	Design
FY 04 Hires	75	35	115	116	31	26	45	443	15
FY 04 Attritions	30	26	58	82	58	43	39	336	4
FY 05 BOY Examiner Staff	417	440	563	658	742	422	439	3681	72
FY 05 Hiring Summary (06/01/05)*	99	45	197	165	159	80	129	874	12
FY 05 Attrits Summary (06/01/05)	22	16	55	49	27	29	28	226	5
FY 05 Hiring Goal	100	35	200	150	160	90	125	860	20
Percent of TC	24%	8%	36%	23%	22%	21%	29%	23%	28%

*Includes hires on board and confirmed and pending offers

Pre-Appeal Conferences

Pre-Appeal Conference

- Background
 - 21st Century Strategic Plan- Quality
 - Approximately 60% of all appealed cases are “not” forwarded to BPAI
- Summary
 - Review to determine whether appeal is warranted

Reexamination

Reexamination

- **Background**
 - 21st Century Strategic Plan- timely process
 - Large number of pending reexams over four years
- **Summary**
 - Process ex parte reexam proceedings pending over 2 years by end of FY '05
 - This will eliminate 420 of 1200 current proceedings

Accelerated Examination

Accelerated Examination

- Current Version under Petition to Make Special
 - MPEP 708.02 VIII, 37 CFR 1.102
- Current provisions:
 - A. Petition/Fee
 - B. Single invention or election without traverse to grant
 - C. Pre-exam search listing field of search
 - D. One copy each reference deemed closest art (NPL, foreign)
 - E. Distinguish references from the claims

Accelerated Examination Section VIII Petition Statistics

Fiscal Year Petition Filed

	FY03	FY04	FY05	Grand Total
Number of undecided Petitions for Accelerated Examination VIII	3	9	72	84*
Number of Granted Petitions for Accelerated Examination VIII Waiting First Action	24	108	202	334
Total Number of Initial (still undecided) and Decided Accelerated Examination VIII Petitions	534	573	618	1725

* 2 in allowed status and 1 in appealed status

Accelerated Examination Section VIII Petition Disposition

FY Petition Filed

	FY03	FY04	FY05	Grand Total
Denied	41	28	20	89
Dismissed	86	91	258	435
Granted	404	445	268	1117
Pending	3	9	72	84
Grand Total	534	573	618	1725

Processing Times for Accelerated Examination Section VIII Petitions

	FY Petition Filed **		
TC	FY03	FY04	FY05
1600 VIII Petitions Granted	22	39	14
Ave. days from petition filing to first action	362.3	194.4	91.1
1700 VIII Petitions Granted	14	16	3
Ave. days from petition filing to first action	225.0	179.3	88.7
2100 VIII Petitions Granted	64	66	3
Ave. days from petition filing to first action	235.1	200.5	106.7
2600 VIII Petitions Granted	89	62	12
Ave. days from petition filing to first action	230.3	156.3	98.8
2800 VIII Petitions Granted	59	32	9
Ave. days from petition filing to first action	200.1	182.3	103.1
3600 VIII Petitions Granted	61	60	6
Ave. days from petition filing to first action	258.1	202.3	56.6
3700 VIII Petitions Granted	64	43	3
Ave. days from petition filing to first action	204.4	197.4	139.7
VIII Petitions Total	369	318	58
Average Total	234.4	188.2	92.7

*Includes only those that have had a first action after the petition decision

** As of May 1, 2005

Accelerated Examination

- Features of the proposed revision:
 - Move to the head of the line
 - Final Disposition within 12 months
 - e-file application and all follow on papers
 - Single Invention
 - Limited Number of Claims
 - Patentability Report
 - Possible Interview before 1st Action
 - Shortened Statutory Period
 - Enforcement of special status in the Corps

Thank You !!!

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